

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 09/649,215

Applicants Lamkin et al.

Filed: August 28, 2000

Title: SOFTWARE ENGINE FOR COMBINING
VIDEO OR AUDIO CONTENT WITH
PROGRAMMATIC CONTENT

Examiner: VU, Tuan A.

Art Unit: 2193

Customer No.: 22242

Confirm. No.: 7416

Certificate of Transmission/Mailing

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6-6-07

Date:

Steven M. Freeland
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RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Mail Stop: APPEAL BRIEF - PATENTS

Hon. Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In responsive to the Notice of Non-Compliant Appeal Brief mailed May 7, 2007, as entered in the above-captioned matter, the Applicants' Appeal Brief filed March 1, 2007 was identified as defective for failure to provide an appropriate summary of claimed subject matter.

No specific issues were identified by in the Notice of Non-Compliant Appeal Brief with respect to the observation that the submitted brief does not contain a concise explanation of the

subject matter defined in each of the independent claims other than the Patent Appeal Center Specialist offered the following explanation:

c(5) The summary of claimed subject matter section does not map the independent claims on appeal to the specification by page, and line number and to the drawings if any.

The Applicants have carefully reviewed the summary section of the Appeal Brief filed March 1, 2007 and, with all due respect, find the presented text of the submitted brief to be fully compliant with the requirements of 37 C.F.R. §41.37. Particular reference was made in the Notice of Non-Compliance with respect to the requirements of 37 C.F.R. §41.37(c)(1)(v). That section first requires:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawings, if any, by reference characters.

This is exactly what the present summary section in the submitted Appeal Brief provides. The subject matter of the independent claims is presented, in prose format, including references to the Figures and specification by page and line number (via corresponding footnotes) as well as reference characters. As to the latter requirement, the summary section even includes presentations of the figures that are referred to in this way.

This portion of the Code of Federal Regulations then provides as follows:

For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. §112, 6th paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Again, this is exactly what the present summary section in the Appeal Brief submitted on March 1, 2007 provided with respect to at least claim 8. The Applicants submit that claim 8 recites “means plus function” language and as such Applicants have set forth in the summary section of

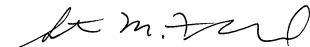
the submitted Appeal Brief for each “means plus function” of at least claim 8 reference to the specification by page and line number and to the drawings when appropriate by reference character the structure, material or acts described in the specification as corresponding to each claimed “means plus function.” Therefore, Applicants respectfully submit that the Appeal Brief filed March 1, 2007 is fully compliant with the requirements of 37 C.F.R. §41.37(c)(1)(v).

There are no other specific requirements set forth in the Code of Federal Regulations. There is, in particular, no requirement that a “map” of any kind be provided; any demand for such a presentation is beyond the requirements of the rules and regulations. The Applicants therefore respectfully submit that the summary of claimed subject matter section of the Appeal Brief is fully compliant with the requirements of the Code of Federal Regulations and is in suitable condition to support consideration by the Board.

Dated:

6-6-07

Respectfully submitted,



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